

REMARKS

Allowable Subject Matter

Applicants gratefully acknowledge the Examiner's indication that the claims recite allowable subject matter. See pages 8-9 of the Office Action.

Amendments

Claims 63 and 64, these two claims are amended to delete the phrase "purine or pyrimidine base or derivative thereof" pursuant to a similar suggested change by the Examiner. In claims 56, 74 and 75, the formulas have been corrected in accordance with the Examiner's suggestions. These amendments merely address formalities and do not raise new issues requiring further search or consideration. Entry of the amendments is respectfully requested.

Objections to Claims Regarding Non-elected Subject Matter

As noted in the Office Action, applicants elected Group III, drawn to 1,3,5-triazine compounds, in response to the Restriction Requirement set forth in the Office Action of July 10, 2002 (Paper No. 10). This same Office Action further listed numerous claims as being linking claims that linked the claims of Group III to other groups. Specifically, claims identified claims 35-50, 55-72, and 74-75 (the same claims objected to by the Examiner) as linking Group III to other groups. In making the election of Group III in the Election filed August 9, 2002, applicants stated that they assumed that examination would proceed in accordance with MPEP §809.04.

The Examiner has never stated that examination will not proceed in accordance with MPEP §809.04. Nor has the Examiner given any rationale as to why this section of the MPEP can be ignored. Therefore, applicants urge the Examiner to examine this application in accordance with the guidelines prescribed by the MPEP, particularly §809.04.

If the Examiner now wishes to present reasons as to why §809.04 will not be followed, such arguments raise a significant new issue, one which is not resulting from any action taken by the applicants. Under such circumstances, applicants respectfully urged that

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the Finality of the prior Office Action be withdrawn to give applicants the opportunity to properly address this new issue.

As for the specific objection to claims 63 and 64, these two claims are amended to delete the phrase “purine or pyrimidine base or derivative thereof.”

As for the specific objections to claims 74 and 75, the formulas have been corrected in accordance with the Examiner’s suggestions.

Rejection Under 35 USC §112, second paragraph

Claims 35, 37, 39-41, 45, 47, 48, 55, 57-59, 63, 65-69, and 74-75 are alleged to be indefinite due to the terms “thioaryl,” “thiol,” and “thioalkyl.” Applicants respectfully traversed the assertion that these terms are indefinite.

In the Reply of February 10, 2003, applicants explained that these terms are common within the chemical arts and well known to one of ordinary skill in the art. The Examiner has not responded to this explanation.

The Examiner has suggested that replacing thiol with mercapto. While the Examiner may prefer certain terms over others, this does not mean that the terms used by applicants are indefinite. As applicants explained in the prior Reply, mercapto is recognized as being a prefix which indicates the thiol group -SH. See the previously submitted excerpt from Grant & Hackhs Chemical Dictionary at page 360. Note also thiohydroxy, a group wherein the oxygen atom is replaced by divalent S, i.e., HS-, is defined as thiol. See the previously submitted excerpt from Grant & Hackhs Chemical Dictionary at page 589. One of ordinary skill in the art upon reading applicants’ disclosure would thus recognize the meaning of thiol recited in the claims. Nothing in the rejection suggest otherwise. Further, it is noted that it has long been held that applicants’ can be their own lexicographer. See, e.g., *Finnigan Corp. v. U.S. Int’l Trade Comm’n*, 180 F.3d 1354, 51 USPQ2d1001 (Fed. Cir. 2001). Here, applicants’ are not making up a word, but are using a term that is known within the relevant art. While the Examiner may desire the use of another synonymous term, this does not mean applicants’ claims are indefinite.

Similarly, the Examiner has suggested that the terms thioalkyl and thioaryl be changed to alkylthio and arylthio, respectively. Here again, merely because the Examiner may prefer

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certain terms over others, this does not mean that the terms used by applicants are indefinite. As applicants' explained in the prior Reply, the term thio is recognized in the art as the replacement of oxygen by a divalent sulfur atom. Thus, the terms thioalkyl and thioaryl are sufficiently clear. Why the Examiner may prefer to name these radicals with the thio structure at the end, it is not common in the art to name radicals that contain a thio structure with thio as a prefix. Here again, see the previously submitted excerpt from Grant & Hackhs Chemical Dictionary at pages 588-589, e.g., thiocarbamoyl, thiophenyl, thiocyanate. Further, a search from the PTO website on claims from issued patents from 1976 on reveals that the terms thioalkyl and thioaryl are not uncommon terms.

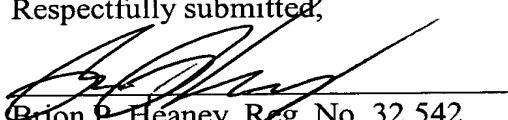
In view of the above remarks, withdrawal of the rejection is respectfully requested.

Rejections Under 35 USC §112, first paragraph

Claims 56 and 60-62 are rejected concerning the obvious typographical error in formula XVII presented in claim 56. This error has been corrected by the above amendment wherein R₇ is changed to R_y. Withdrawal of the rejections is respectfully requested.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,


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